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UNITED STATES DEPARTMENT OF COMMERCE
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In re Application of
Kanayama et al.
Application No.: 09/423436
PCT No.: PCT/JP99/00776
Int. Filing Date: 22 February 1999
Priority Date: 24 February 1998
Attorney's Docket No.: 991238
For: Sliding Bearing for Internal
Combustion Engine

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: DECISION ON
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: PETITION UNDER
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: 37 CFR 1.137(b)
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This is in response to the "Petition to Revive Under 37 CFR 1.137(b)" filed on 23 March 2000.

BACKGROUND

Applicants filed this international application on 22 February 1999, and claimed a priority date of 24 February 1998. The International Bureau transmitted a copy of the published international application to the United States Patent and Trademark Office on 02 September 1999. No Demand electing the United States appears to have been filed prior to the elapse of 19 months from the priority date. Accordingly, the twenty-month time period to pay the basic national fee in the United States expired as of midnight on 24 October 1999. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

Applicant filed a Transmittal Letter on 09 November 1999. The Transmittal Letter was accompanied by, *inter alia*, the required basic national fee, an English translation of the international application, a preliminary amendment, and a signed declaration of the inventors.

A Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants on 08 March 2000, indicating that this international application had become abandoned with respect to the United States for failure to pay the full basic national fee by twenty months from the priority date.

Applicants filed the instant petition, petition fee and accompanying papers on 23 March 2000.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section. This petition satisfies requirements (1), (2) and (4).

Regarding requirement (3), applicants' statement that "The delay from the deadline for entry into the U.S. national stage to the date of the present petition was unintentional" is being construed as a statement that the *entire* delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3). As such, it would be appropriate to grant the requested relief on the basis of the present record.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for continued processing, including the preparation and mailing of a Notification of Acceptance (Form PCT/DO/EO/903). The 35 USC 102(e) and 35 USC 371 date of this application is **09 November 1999**.



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